

one of said surfaces, said grinding surface defining a rough finish devoid of sharp edges.

26. (Once Amended) A nail file as recited in claim 25, wherein said grinding surface[s] is formed by chemically etching said surface in a solution that facilitates an ionic exchange of ions contained in said glass material with ions released by said solution.

### **REMARKS**

Reconsideration of this application is requested. Claims 1, 8 and 24-26 have been amended without prejudice and remain pending. Claim 23 has been cancelled without prejudice. Claims 1-22 and 24-34 remain pending. No new subject matter has been added.

Applicant notes the Examiner's rejection of claims 1-24 and 26-28 under 35 U.S.C. Section 112 for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has addressed said rejections by amending claims 1, 8, 24 and 26 to provide proper antecedent basis.

Applicant respectfully traverses the Examiner's rejection of claims 1, 4, 7, 8, 10, 11, 25, 26, 28 and 29 under 35 USC §102(b), as being anticipated by Blazek (WO 99/02064). Notwithstanding the amendments to the claims, Applicant submits that Blazek does not anticipate the original claims. Applicant has a prior date of invention and is the actual inventor. Accordingly, Blazek is not a valid patent and can not possibly anticipate Applicant's claimed invention. Pursuant to 35 U.S.C. §102(f), it is axiomatic that the applicant for patent be the inventor of the subject matter patented. As Blazek is not the inventor, the Blazek patent is invalid and can not be used to anticipate Applicant's claims.

Applicant respectfully traverses the Examiner's rejection of claims 2, 3, 5, 6, 16-21, 27 and

34 under 35 USC §103(a), as being unpatentable over Blazek. Applicant incorporates the arguments for claims 1, 4, 7, 8, 10, 11, 25, 26, 28 and 29 and further states that the cited reference fails to render the claims unpatentable. Blazek is not a valid patent, as Applicant invented the claimed invention prior to the earliest filing date of Blazek. Accordingly, Applicant submits that the claimed invention is patentable over the cited references.

Applicant respectfully traverses the Examiner's rejection of claims 9 and 12 under 35 USC §103(a), as being unpatentable over Blazek in view of Haga. Applicant incorporates the arguments for claims 1, 4, 7, 8, 10, 11, 25, 26, 28 and 29 and further states that the cited references, individually and in combination, fail to render the claims unpatentable. Blazek is not a valid patent, as Applicant invented the claimed invention prior to the earliest filing date of Blazek. Haga is structurally and functionally distinct from Applicant's claimed invention. Accordingly, Applicant submits that the claimed invention is patentable over the cited references.

Applicant respectfully traverses the Examiner's rejection of claims 13-15 and 31-33 under 35 USC §103(a), as being unpatentable over Blazek in view of Dulick. Applicant incorporates the arguments for claims 1, 4, 7, 8, 10, 11, 25, 26, 28 and 29 and further states that the cited references, individually and in combination, fail to render the claims unpatentable. Blazek is not a valid patent, as Applicant invented the claimed invention prior to the earliest filing date of Blazek. Dulick is structurally and functionally distinct from Applicant's claimed invention. Accordingly, Applicant submits that the claimed invention is patentable over the cited references.

Applicant respectfully traverses the Examiner's rejection of claims 22 and 24 under 35 USC §103(a), as being unpatentable over Blazek in view of Calafut. Applicant incorporates the arguments for claims 1, 4, 7, 8, 10, 11, 25, 26, 28 and 29 and further states that the cited references, individually

and in combination, fail to render the claims unpatentable. Blazek is not a valid patent, as Applicant invented the claimed invention prior to the earliest filing date of Blazek. Calafut is structurally and functionally distinct from Applicant's claimed invention. Accordingly, Applicant submits that the claimed invention is patentable over the cited references.

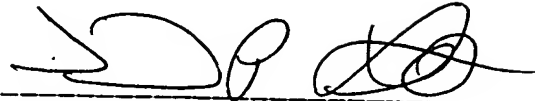
Applicant respectfully traverses the Examiner's rejection of claim 30 under 35 USC §103(a), as being unpatentable over Blazek in view of Silverman. Applicant incorporates the arguments for claims 1, 4, 7, 8, 10, 11, 25, 26, 28 and 29 and further states that the cited references, individually and in combination, fail to render the claims unpatentable. Blazek is not a valid patent, as Applicant invented the claimed invention prior to the earliest filing date of Blazek. Silverman is structurally and functionally distinct from Applicant's claimed invention. Accordingly, Applicant submits that the claimed invention is patentable over the cited references.

Notwithstanding the foregoing arguments, Applicant has amended the claims to advance this case toward allowance. For the reasons indicated above, Applicant asserts that claims 1-22 and 24-34 patentably distinguish Applicant's invention over the references cited by the Examiner, and are now in condition for allowance. Applicant respectfully requests that the above rejections be reconsidered and withdrawn since the overall invention, as recited in Applicant's claims can not be taught or suggested by the prior art, either individually or in combination.

Should the Examiner have any concerns or comments, the undersigned would appreciate a

telephone conference in order to expedite this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. P. Lhota', written over a horizontal dashed line.

David P. Lhota, Reg. No. 39,275  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
Suite 1900, 200 East Broward Boulevard  
Fort Lauderdale, FL 33301  
(954) 462-9576

PATENT APPLICATION : NAIL FILE DEVICE  
SERIAL NO. : 10/010,090  
FILE NO. : 4456.007

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that the following correspondence: ***AMENDMENT IN RESPONSE TO OFFICE ACTION OF 03/18/2003; PETITION FOR EXTENSION OF TIME; CHECK IN THE AMOUNT OF \$260.00; AND RETURN POSTCARD FOR CONFIRMATION OF RECEIPT*** is being deposited with the United States Postal Service as first class mail with sufficient postage addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 18<sup>th</sup> day of September, 2003.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

  
David P. Lhota

Date: 9/18/03

STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON, P.A.  
200 East Broward Boulevard, 19<sup>th</sup> Floor  
Fort Lauderdale, Florida 33301  
(954) 462-9500

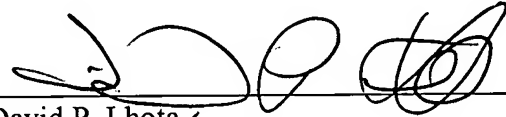


APPLICANT : In. Jan Turina  
SERIAL NO.: 10/010,090

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that the following correspondence: ***NOTICE OF FILING WITH COPIES OF PREVIOUSLY FILED AMENDMENT IN RESPONSE TO OFFICE ACTION DATED MARCH 18, 2003 AND PETITION FOR EXTENSION OF TIME; and RETURN POSTCARD FOR CONFIRMATION OF RECEIPT*** is being deposited with the United States Postal Service as first class mail in a prepaid envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 26<sup>th</sup> day of September, 2003.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

  
David P. Lhota  
Date: 9/26/03

STEARNS WEAVER MILLER WEISSLER ALHADEFF & SITTERSON, P.A.  
200 East Broward Boulevard, 19<sup>th</sup> Floor  
Fort Lauderdale, Florida 33301  
(954) 462-9500

RECEIVED  
OCT 06 2003  
TECHNOLOGY CENTER R3700